

**REMARKS**

Claims 1-20 are pending in the application and were initially examined. No claims stand initially allowed.

Claims 10, 12, 14, 16, 17, and 18 are amended to address the Examiner's typographical concerns.

Favorable reconsideration is respectfully requested in view of the enclosed amendments and the following representations.

The specification is amended to correct minor errors. No new matter has been added. Support for the amendments is found in the original claims, specification, and drawings.

**1. Objection to the Specification**

The Examiner notes objections to the language selection and typographical errors in the Abstract and Description of the present application. Applicant has appreciated the Examiner's review, thanks the Examiner for their specificity, and has made the recommended amendments for clarity, as requested.

No new matter has been added. All amendments are supported by the disclosure.

In view of the amendments, Applicant proposes that all Objections to the Specification have been overcome and request reconsideration and removal of the Objection.

**2. Objection to the Drawings**

The Examiner notes an objection to the drawings, particularly the use of reference numeral 21 as shown in Fig. 1 relating to the extended tab portions of bracket member 2.

Applicant has appreciated the Examiner's review and has made the appropriate amendment

to the specification.

It is noted that reference numerals 21 are fully described as bracket wings or outer wings on page 13, second full paragraph. The function and suitability of bracket wings 21, 21 is fully described and supported by Fig. 1.

Appropriate amendment to the first full paragraph on page 13 is provided above.

Applicant proposes that the present amendment overcomes the Examiner's concern regarding the drawing. No amendment to Fig. 1 is required.

No new matter has been added. All amendments to the Specification are supported by the drawing and specification disclosure.

In view of the amendments, Applicant proposes that the Objection to the drawings has been overcome and request reconsideration and removal of the Objection.

### **3. Rejection of claims under 35 U.S.C. §112, second paragraph**

Claims 14-18 stand presently rejected under 35 U.S.C. §112, second paragraph, lacking antecedent basis in the manner noted in the Examiner's comments. Upon review of the claim language noted, each of the concerns raised involves a typographical correction.

Applicant has corrected the typographical or present/past tense language issues without material or substantive amendment to the claims.

No new matter has been added.

It is proposed that the present clarifications have addressed each of the Examiner's concerns and that the present rejection has been correspondingly overcome.

Applicant respectfully requests notice to this effect in any subsequent communication.

**4. Rejection of claims 1-14 and 17-20 under 35 U.S.C. § 102(b)**

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Siebert et al. (US Pat. No. 5,169,244). The rejection is respectfully traversed and reconsideration is requested. In order to avoid rejection for anticipation, it is only necessary to show that a claim contains at least one element not disclosed in a single prior art reference.

Applicants note that MPEP § 706.02(I) requires that the Examiner's rejections should be "confined strictly" to the best available art, and similarly that each and every objection and rejection available be raised together. As a consequence the Examiner therefore takes the procedural position that Siebert is the best available art (for the § 102 rejection). Similarly since each and every rejection and objection that can be made must be made with each action, the lack of a § 103 rejection, or any type of combined § 102/103 rejection is an assertion that no other art exists that is sufficient to raise in combination with Siebert (since none is provided). As a consequence, should any subsequent action include a new reference or attempt to make a subsequent rejection over the present art in a final form, such a final rejection would be improper as preventing Applicants from having an initial opportunity to address the matter.

Since the present claims require a review dictated by Applicant's disclosure, and not a review contrary to the use of the terms therein, Applicant respectfully notes that when interpreting claim language, the Applicant may be their own lexicographer as long as the meaning given to the term is not repugnant to the term's well known usage. MPEP § 2173.01, 2111.01, MPEP § 21783.05(a), *In re Prater*, 415 F.2d 1393 and elsewhere. It seems here that the Examiner is interpreting claim language "elastomeric" according to a meaning not dictated by or restricted to the disclosure, namely that "elastomeric" can be rigid and bent to remain in a fixed position - this is contrary to the disclosure. Should the Examiner maintain a claim language interpretation not dictated by the disclosure, Applicants respectfully request an offer of proof admissible to the Board during later Appeal, that the claim language dictated by the specification is repugnant to the well known usage.

Before responding in detail, it is clear that a partial review of Siebert would aid the present understanding, it is noted:

First, half shells 3 and 4 surround bearing material 9 and, and hence are not, and cannot function as, elastomeric bodies (see col. 3, lines 45-50, col. 3, lines 10-15, Fig. 6 and elsewhere) It is bearing material 9, with bearing surface 10, that is surrounded by shells 3 and 4 and is individually replaceable in halves. It is rather arguable whether anything could be elastomeric at all within Siebert since, as specified in the Background Of The Invention, the entire disclosure is meant to address a long-operating “high temperature” oven, where workers are required to wear “asbestos gloves and other similar protective clothing” prior to total cool down. Elastomeric materials as required in the instant disclosure would rapidly degrade in such high temperature. It seems logical that bearing materials 9 are hard metal bearing plates to absorb rigid friction wear, and shells 3, 4 are a softer metal such as low carbon steel.

In any case, the word elastomeric does not exist in the disclosure and has therefore been inserted in the interpretation by the Examiner without support.

Second, half shells 3 and 4 include, and are required to include, respectively, tongue 6 and slot 7, wherein tongue 6 is “bent upwardly (see Fig. 3) to lock bearing 19 its closed position” (col. 3, 55-60 and Fig. 3); thereby further requiring at least shell 3 with tongue 6 to be made of a rigid material cable of being bent and remaining in a fixed-bent position. See col. 2, lines 15-20 requiring a bendable material that “*can be bent back so it can no longer slip out. [t]his securely holds the shell and bearing material in the closed cylindrical position.*” Thus, it is rather obvious that shells 3 and 4 are metal, not an elastomeric material as required in the claims. Elastomeric materials return to their original position upon the release of stress (similar to all rubber-like compositions) and cannot be bent to remain in position when the stress is removed - as would be required during installation of the Siebert slot/tongue combination.

Third, while there can be no remaining argument that shells 3 and 4 are elastomeric, final understanding is clear from col. 3, lines 40-50, where Siebert allows the replacement of ½ of bearing

material 9 apart from shells 3/4 while “retaining the other half” (col. 3, lines 45) of bearing material 9. The present invention provides only a single bearing form, incapable of sub-division.

Similarly male flanges 8 project mid-way between the edges of shells 3, 4 (see Figs, 5, 6) and are formed from the same material as shells 3, 4 (required the cross-sectional view of Fig. 6). Thus, not only are male flanges 8 constructed from an improper material, they are located in the wrong position.

It is additionally noted that Bearing holder 24 (col. 3, line 11) seems to be without reference to the drawings and likely comprises the two half metal shells 3 and 4.

As the present basis is sufficient to overcome the present rejection, further discussion is not provided.

Missing from Siebert, and required by the claims are the following items - only one of which is required to overcome the present rejection:

(1) An elastomeric member - this is a specific limitation- there is no disclosure of Elastomeric in the reference.

(2) A single elastomeric member defining a central opening.

(3) Outer seal members - there are no shown seal members in Siebert.

(4) A requirement that the outer seal members be ON front and rear faces of the elastomeric member

(5) The existence of first and second flange members extending from an outer edge portion proximate front and rear faces. - there are no outwardly projecting flanges from an elastomeric member on the edges.

(6) Flange portions having a hinge section where their projection distance is reduced for hinge capacity. It is insufficient to find a reference with “hinge portions” alone.

(7) No saddle region definable between flange members, and hence no saddle region.

It is therefore proposed, that at least one element, limitation, or restriction of each present independent claim is completely lacking from Siebert. As a consequence every independent claim is allowable for that reason. Each dependent claim, being dependent upon and further limiting their

respective independent claims are allowable for that reason, as well as for the additional recitations they contains.

In view of the above, Applicant respectfully requests reconsideration and removal of the rejection of claims 1-14 and 17-20 under 35 U.S.C. § 102(b) in view of the above remarks and amendments.

### CONCLUSION

Reconsideration and withdrawal of the rejection is respectfully requested. In view of the foregoing, the application is now believed to be in proper form for allowance and notice to that effect is earnestly solicited. Applicants propose respectfully that they have responded to each and every rejection and objection raised by the Examiner in this case.

While Applicants have respectfully disagreed with the Examiner's rejection of the claims for the above reasons, Applicant's have elected to amend the claims for clarity only to fix typographical errors, and solely for the purpose of clarifying the patent application process in a manner consistent with the PTO's Patent Business Goals

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 10-0100.

No new matter has been added.

If the Examiner would like to discuss the present application, claims, amendments or other matters, Applicant would appreciate a courtesy call to discuss placing the application in condition for allowance.

Early and favorable action is respectfully solicited.

Respectfully Submitted,

Andrew F. Young, Esq.  
Registration No. 44,001  
Attorney for Applicant

Lackebach Siegel, LLP  
One Chase Road  
Scarsdale, NY 10583  
February 14, 2006